

Ameritech apparently would require shutting down secondary systems in order to offer interference-free AVM services. Although the FCC could oblige, such a decision would be controversial among the thousands of amateur and Part 15 users and manufacturers. AMTECH notes that the FCC only recently sought to encourage further development of Part 15 services in this band, and manufacturers are even now retooling to make equipment for this band in reliance on its availability.<sup>62</sup>

More importantly, Ameritech, like PacTel, virtually ignored the interference problems posed by industrial, scientific and medical uses. These applications are primary to AVM and there are no limitations on their emissions at 902-928 MHz.<sup>63</sup> The record thus far demonstrates that the PacTel and Ameritech systems could fail when a single such emitter is activated.

In short, the comments of Ameritech underscore the AMTECH observations about the fragility of the Teletrac system and demonstrate that Ameritech's nearly identical technology is comparably deficient. Because of the extremely high susceptibility to co-channel interference, establishing the PacTel and Ameritech systems as the base line technology would inevitably result in "widespread and continual

---

<sup>62</sup> See e.g., Revision of Part 15, 4 F.C.C. Red 3493, 3502 (1989) (authorizing the operation of Part 15 devices in 902-928 MHz band generally and adopting more lenient emission limits for certain intentional radiators), recon. 5 F.C.C. Red 3492, 3493 (1990) (denying petition to delay introduction of new Part 15 devices into 902-905 MHz band indefinitely); Spread Spectrum Systems, 5 F.C.C. Red 4123, 4123 (1990) (amending 47 C.F.R. § 15.247 to "broaden the opportunities for development and use of important [spread spectrum] technologies").

<sup>63</sup> 47 C.F.R. § 18.305(a) (1991).

electromagnetic compatibility problems or further regulatory confrontations."<sup>64</sup> Not only would the PacTel proposal displace other AVM users, the amateur allocation and Part 15 uses -- although secondary to AVM at 902-928 MHz -- could ultimately be endangered,<sup>65</sup> thwarting FCC policy objectives.

In sharp contrast to the fragility proposed by the seekers of exclusivity, the comments suggest several spectrum approaches in which the AVM spectrum could continue to be shared with other users, as well as multiple AVM participants, under the Commission's current flexible regulatory environment.<sup>66</sup> Before committing U.S. AVM users to a second-class technology -- such as PacTel and Ameritech seem to be touting -- the Commission should seek solutions that better serve the public at large.

### **III. THE COMMENTS CONFIRM THAT PACTEL AND AMERITECH ARE ENGAGED IN SPECTRUM SPECULATION**

In its attempt to direct the attention of the Commission to the prospect for future speculation in AVM licenses in 902-928 MHz, Ameritech does not sufficiently distance itself from its own and PacTel's practices. Ameritech brazenly contests that "any entity which has made a serious commitment to the development of AVM to-date should have secured a license prior to [PacTel] Teletrac's Petition."<sup>67</sup> Those entities

---

<sup>64</sup> AMTECH Opposition at 42 n.87.

<sup>65</sup> See id. at 42; Comments of Allen-Bradley at 5.

<sup>66</sup> See supra, pp. 15-16.

<sup>67</sup> Comments of Ameritech at 18.

that have not done so "will likely be speculators."<sup>68</sup> Despite these allegations, the rules proposed by PacTel and supported by Ameritech would not discourage speculators so much as grant these two RBOCs a paramount competitive advantage in the AVM marketplace.<sup>69</sup> In fact, it is all too clear that the most easily and perhaps only identifiable speculators at 902-928 MHz are PacTel and Ameritech themselves.

Currently, as Pinpoint illustrates, PacTel and Ameritech combined have received almost 1100 licenses for AVM systems.<sup>70</sup> As discussed above, and in AMTECH's Opposition, the current AVM rules provide for multiple entry by AVM systems, including so-called wideband systems.<sup>71</sup> These thousand-plus licenses were obtained in a shared spectrum environment, and PacTel and Ameritech have obtained extended implementation schedules from the Commission granting them five years before they must actually construct.<sup>72</sup>

By seeking retroactive exclusivity, PacTel and Ameritech would have the Commission cut-off more than one thousand licenses that, when granted, were subject to sharing with other users. This is patently unfair to other parties who have not yet

---

<sup>68</sup> Id.

<sup>69</sup> Indeed, the potential for speculation, as the Commission has learned, is often greatest with lotteries for exclusive allocations, not in an open-entry, shared-spectrum environment.

<sup>70</sup> Opposition of Pinpoint, Attachment A.

<sup>71</sup> See supra, p. 15 n.42; AMTECH Opposition at 17-19.

<sup>72</sup> See e.g., Application of WNZD544, File No. 9201338844, Attachment at 3 (Jan. 10, 1992) (Ameritech); Letter to Carole Harris, Counsel for Teletrac, from Terry Fishel, Chief, Land Mobile Branch (Mar. 23, 1989) (PacTel).

applied for licenses (unaware of any cut-off) but also to existing licensees such as AMTECH and its customers with expansion plans in the two 8 MHz subbands at issue. Beyond the unfairness to others, PacTel's requested relief would actually reward PacTel and Ameritech for their speculation. Despite obtaining over 750 licenses, PacTel has implemented systems in only four to six cities.<sup>73</sup> Ameritech does not identify a single location in which it is operating, despite possessing over 300 licenses.<sup>74</sup> This, not some inchoate threat, is spectrum speculation.

The PacTel Petition and Ameritech's comments suggest that without the requested rule changes, they will deploy very few if any additional systems.<sup>75</sup> Given that PacTel and Ameritech sought and obtained 1000-plus licenses under the existing rules, the Commission fully should expect these two licensees to construct the systems under the existing regulatory environment. If that is not their intent, then it was disingenuous for the RBOC duopoly to request and obtain extended implementation schedules. Indeed, if the two companies did not intend to build the systems for which they have been licensed, the Commission should initiate hearings to determine if some, or all, of the authorizations for unconstructed sites should be revoked.

---

<sup>73</sup> PacTel Petition at 1-2; Opposition of Pinpoint, Attachment A at 2.

<sup>74</sup> Opposition of Pinpoint, Attachment A at 4.

<sup>75</sup> AMTECH submits that, to the contrary, in an exclusive environment, without the marketplace stimulus of competition, PacTel and Ameritech would have little or no incentive to serve the public on a timely basis.

In contrast to PacTel and Ameritech, other parties that are perfecting their system designs to operate in a shared regulatory environment cannot be deemed speculators merely because they have not yet filed for applications. At bottom, therefore, it is a bizarre distortion for Ameritech to suggest that entities with more modest systems are "speculators" when it and PacTel have deployed systems in far less than one percent of the areas licensed to them. The first group of parties are acting along lines consistent with the public interest; PacTel and Ameritech appear to have solely selfish concerns in mind.

#### **IV. CONCLUSION**

In conclusion, the record in this proceeding is clear that PacTel and Ameritech have failed to meet the burden imposed on them by Section 7 of the Communications Act that their technology should be established as the "baseline" for AVM systems to the exclusion of other technologies.<sup>76</sup> Absent that showing, the Commission should continue to maintain a regulatory environment with the flexible scope of the current one, with the minor changes proposed by AMTECH in its Opposition to be adopted in any permanent rules.<sup>77</sup> For the foregoing reasons, and for those set forth in its

---

<sup>76</sup> 47 U.S.C. § 157(a).

<sup>77</sup> AMTECH Opposition at 44-47.

Opposition, AMTECH submits that the petition for rulemaking of PacTel be dismissed or denied.

Respectfully submitted,

AMTECH CORPORATION

By: David E. Hilliard

Richard E. Wiley

David E. Hilliard

Carl R. Frank

Edward A. Yorkgitis, Jr.

of

WILEY, REIN & FIELDING

1776 K Street, N.W.

Washington, D.C. 20006

(202) 429-7000

Its Attorneys

August 7, 1992

CERTIFICATE OF SERVICE

I hereby certify that on this 7th day of August, 1992, I caused copies of the foregoing "Reply Comments" to be hand-delivered to the following:

Stanley M. Gorinson  
Lyndee Wells  
Winthrop, Stimson, Putnam  
& Roberts  
1133 Connecticut Avenue, N.W.  
Suite 1200  
Washington, D.C. 20036

John B. Richards  
Keller & Heckman  
1101 G Street, N.W., Suite 500W  
Washington, D.C. 20001

John J. McDonnell  
Marnie K. Sarver  
Matthew J. Harthun  
Reed, Smith, Shaw & McClay  
1200 18th Street, N.W.  
Washington, D.C. 20036

Alfred Winchell Whittaker  
Mitchell F. Hertz  
James W. Draughn, Jr.  
Kirkland & Ellis  
655 15th Street, N.W.  
Washington, D.C. 20005

and mailed via first-class postage prepaid mail to the following:

George Y. Wheeler  
Koteen & Naftalin  
1150 Connecticut Avenue  
Washington, D.C. 20036

David L. Hill  
Audrey P. Rasmussen  
O'Connor & Hannan  
1919 Pennsylvania Avenue, N.W.  
Suite 800  
Washington, D.C. 20006

Thomas J. Keller  
Verner, Liipfert, Bernhard  
McPherson and Hand, Chartered  
901 15th Street, N.W.  
Suite 700  
Washington, D.C. 20005

Hunter O. Wagner, Jr.  
General Manager  
Greater New Orleans Expressway  
Commission  
P.O. Box 7656  
Metairie, LA 70010

James D. Ellis  
William J. Free  
Mark P. Royer  
Southwestern Bell Corporation  
One Bell Center, Room 3524  
St. Louis, MI 63101-3099

Richard C. Steinmetz  
Assistant General Counsel  
Allen-Bradely Company, Inc.  
1201 South Second Street  
Milwaukee, WI 53204

James S. Marston  
Senior Vice President and  
Chief Information Officer  
American President Companies,  
Ltd.  
1111 Broadway  
Oakland, CA 94607

Ken Siegel  
Associate General Counsel  
American Trucking Associations  
2200 Mill Road  
Alexandria, VA 22314-4677

Richard F. Andino  
Vice President  
Amtech Logistics Corporation  
17304 Preston Road, E100  
Dallas, TX 75252

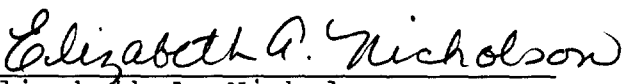


C. A. Moore  
Executive Director  
City of Los Angeles Department  
of Airports  
P.O. Box 92216  
Los Angeles, CA 90009

David M. LeVan  
Senior Vice President  
Corporate Systems  
Conrail Technical Services  
Laboratory  
Second St. Juniata  
Altoona, PA 16603

John L. Bartlett  
David E. Hilliard  
Carl R. Frank  
Edward A. Yorkgitis, Jr.  
Wiley, Rein & Fielding  
1776 K Street, N.W.  
Washington, D.C. 20006

Richard L. Ridings  
Chief Executive Officer  
Oklahoma Turnpike Authority  
3500 Martin Luther King Ave.  
P.O. Box 11357  
Oklahoma City, OK 73136-0357

  
Elizabeth A. Nicholson